

Message Text

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PAGE 01 NAIROB 07376 131506Z

ACTION EB-07

INFO OCT-01 AF-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-07 NSAE-00 EPG-02 FAA-00 L-03
INRE-00 SS-15 NSC-05 SSO-00 NSCE-00 /052 W
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FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC IMMEDIATE 8931

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E. O. 11652: N/A

TAGS: EAIR, KE

SUBJ: CIVAIR: PAN AM TRAFFIC RIGHTS

REF: (A) NAIROBI 7225, (B) NAIROBI 7287

1. EMBOFF MET WITH SENIOR ASSISTANT SECRETARY G. MAHINDA, MINISTRY OF POWER AND COMMUNICATIONS, TO DISCUSS RECENT AVIATION DIRECTIVES ISSUED BY MINISTRY AND, SPECIFICALLY, TO CLARIFY PAN AM'S DIRECTOR'S REPORT CONCERNING REQUEST FOR TEMPORARY AGREEMENT GOVERNING FIFTH FREEDOM RIGHTS. ALTHOUGH RESPONSIBLE TO TWO SENIOR MINISTRY OFFICERS IN QUESTIONS OF AVIATION POLICY, MAHINDA HAS PERSONALLY CONDUCTED MEETINGS WITH AIRLINE REPRESENTATIVES AND APPEARS MOST KNOWLEDGEABLE MINISTRY OFFICIAL ON ISSUES SUCH AS TRAFFIC RIGHTS, BILATERAL AIR TRANSPORT AGREEMENTS, AND PAST EXPERIENCE OF AIRLINES WITH EAST AFRICAN COMMUNITY CIVIL AVIATION AUTHORITIES.

2. MAHINDA STRESSED THAT MINISTRY'S MAY 28 AND JUNE 6 LETTERS WERE DIRECTED SOLELY TO AIRLINES ENJOYING TEMPORARY TRAFFIC PRIVILEGES GRANTED AFTER EAA COLLAPSE. THIS INCLUDES NAIROBI-DAR ES SALAAM ROUTE, AS WELL AS NAIROBI-MAURITIUS AND POSSIBLY ALSO NAIROBI-SEYCHELLES IF BRITISH AIRWAYS' LIMITED OFFICIAL USE

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PAGE 02 NAIROB 07376 131506Z

LONG-STANDING DIFFICULTIES WITH EAST AFRICAN COMMUNITY HAVE NOT BEEN RESOLVED SATISFACTORILY. IN PAN AM'S CASE, THEREFORE, WEST AFRICAN-NAIROBI ROUTE APPEARS SAFE FOR TIME BEING AS AIRLINE HELD TRAFFIC RIGHTS PRIOR TO FEBRUARY 1.

3. EMBOFF ASKED MAHINDA ABOUT SUBJECT OF TEMPORARY ARRANGEMENT, WHICH HAD BEEN INTRODUCED IN HIS MEETING WITH PAN AM

DIRECTOR. MAHINDA SAID MINISTRY HAD INVITED ALL AIRLINES EXERCISING PROVISIONAL FIFTH FREEDOM RIGHTS AS DESCRIBED IN PARA 2 TO ENTER INTO ACCORD WITH MINISTRY BEFORE CONCLUSION OF FORMAL GOVERNMENT BILATERAL. THIS INTERIM AGREEMENT WOULD COVER BASIC OPERATING PROCEDURES. MAHINDA EXPRESSED SURPRISE THAT PAN AM FELT IT NECESSARY TO REFER MATTER TO USG SINCE AIRLINES COULD HANDLE CONSULTATIONS DIRECTLY WITH MINISTRY. TEMPORARY AGREEMENT, HE STATED, COULD BE CONCLUDED BY EXCHANGE OF LETTERS, I.E., MINISTRY WOULD PRESENT LIST OF CONDITIONS TO AIRLINE AND LATTER WOULD NEGOTIATE WHAT WAS NOT IMMEDIATELY ACCEPTABLE. MAHINDA CLAIMS PROCEDURE WOULD NOT PRESENT FAIT ACCOMPLI TO GOVERNMENT DELEGATIONS LATER ENGAGED IN BILATERAL NEGOTIATIONS. EMBOFF ASKED IF RESUMPTION OF INTERNATIONAL AIR SERVICE BETWEEN NAIROBI AND DAR ES SALAAM MEANT THAT MINISTRY HAD ALREADY HELD SUCCESSFUL DISCUSSIONS WITH OTHER AIRLINES. MAHINDA REPLIED THAT, TO MINISTRY'S DISAPPOINTMENT, NO AIRLINE HAD YET CONTACTED HIS OFFICE TO ENTER INTO TEMPORARY AGREEMENT. IN RESPONSE TO EMBOFF'S QUESTION, MAHINDA SAID GOK COULD NOT INVOKE LEGAL PENALTIES TO FORCE CONSULTATIONS BUT FELT THAT AIRLINES MIGHT SOMEHOW BENEFIT BY EARLY ACCOMMODATION IF MINISTRY LATER DECIDED TO RESTRICT KENYAN UPLIFT RIGHTS.

4. MAHINDA STATED GOK WOULD QUOTE SOON UNQUOTE BE FORMALLY ADDRESSING ALL INTERESTED GOVERNMENTS REGARDING INITIATION OF BILATERAL AVIATION DISCUSSIONS. ALL CONSULTATIONS, BOTH TOWARDS TEMPORARY ACCORD AND PERMANENT AIR TRANSPORT AGREEMENT, WILL BE CONDUCTED BY KENYAN GOVERNMENT OFFICIALS. IN MAHINDA'S WORDS, KENYA AIRWAYS WOULD NOT BE ENTRUSTED WITH LIMITED OFFICIAL USE

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PAGE 03 NAIROB 07376 131506Z

THIS RESPONSIBILITY AS QUOTE THEY ARE ONLY INTERESTED IN MAKING MONEY NO MATTER WHAT HAPPENS UNQUOTE.

5. COMMENT: INTRA-GOVERNMENTAL FLAP OVER ITS HANDLING OF REGIONAL AIR SERVICE (REFTEL B) PROBABLY CONTRIBUTED TO LOW-KEY, CONCILIATORY TONE CURRENTLY EMPLOYED BY MINISTRY OF POWER AND COMMUNICATIONS. SINCE OTHER MAJOR INTERNATIONAL OPERATORS HAVE NOT ACCEDED TO REQUIREMENT FOR TEMPORARY AGREEMENTS, EMB FEELS PAN AM CAN SAFELY AVOID ISSUE FOR TIME BEING. IN FACT, AIRLINE MAY PREFER NOT TO BE TEXT CASE IN THESE STILL AMBIGUOUS CONSULTATIONS. EMB, FOR INSTANCE, IS NOT SATISFIED THAT TERMS OF TEMPORARY AGREEMENT WILL HAVE UNPREJUDICIAL EFFECT ON LATER FORMAL NEGOTIATION. HOWEVER PAN AM DECIDES TO COMPLY WITH MINISTRY REQUESTS FOR TEMPORARY AGREEMENT, WE DO NOT FEEL USG SHOULD REPRESENT PAN AM IN THIS PRELIMINARY PHASE. UNLESS PAN AM SUBJECT TO FIRM PRESSURE TO FORMALIZE PRESENT OPERATING PRIVILEGES, WE RECOMMEND POSTPONING USG INTERVENTION UNTIL RECEIPT OF GOK INVITATION TO CONVENE GOVERNMENT-LEVEL

NEGOTIATIONS FOR AIR TRANSPORT BILATERAL.

DECONTROL 6/13/78
LINDSTROM

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Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR ROUTE AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 13-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Unique ID: 00
Drafter: n/a
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Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770210-0444
Format: TEL
From: NAIROBI
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Legacy Key: link1977/newtext/t19770663/aaaacdjwtel
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Litigation History:
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